

ASSEMBLY BILL

No. 637

Introduced by Assembly Member Harman

February 19, 2003

An act to amend Sections 17525, 17529, 17558, 17558.5, 17560, 17610, 17615.7, and 17616 of, and to add Sections 17527.5 and 17616.1 to, the Government Code, relating to state-mandated local programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 637, as introduced, Harman. State-mandated local programs.

(1) Existing law establishes the 7-member Commission on State Mandates. Under existing law, 2 of the 7 members appointed by the Governor are to be from 3 categories representing the governing entity of a city, county, or city and county, or school district. Existing law provides that a commission member is to receive a per diem of \$100 for each day actually spent, and be reimbursed for actual and necessary expenses incurred, in the discharge of official duties.

This bill would provide for the appointment of an alternate member who would be required to attend all commission meetings as a nonvoting member and the alternate member would be required to vote as a member if either of the regular members representing local government is absent or does not vote or if the position of a regular member representing local government is vacant. The bill would extend the reimbursement of actual and necessary expenses and the per diem to an alternate commission member.

(2) Existing law authorizes the commission to appoint an attorney for the commission and requires the attorney to represent and appear for

the commission in all actions and proceedings involving any question under provisions relating to state-mandated local costs.

This bill instead would authorize the attorney for the commission to represent and appear for the commission in all actions and proceedings in which the commission is authorized to appear. The bill would prohibit the commission from being represented or appearing in any court action or proceeding involving test claims, incorrect reduction of claims, or other matters involving quasi-judicial decisions of the commission.

(3) Existing law requires the commission to adopt procedures for receiving claims by local agencies and school districts for reimbursement of the costs of new programs and higher level of services mandated by the Legislature or by a state agency.

The bill would revise the time period by which a local agency or school district may file an annual reimbursement claim or amend a claim for reimbursement or file a claim for actual costs in specified circumstances.

(4) Under existing law, a reimbursement claim is subject to the initiation of an audit by the Controller no later than 3 years after the date that the actual reimbursement claim is filed or last amended, whichever is later.

This bill would require that any audit or review by the Controller must be commenced within a 2-year period, and must be completed and a final audit report issued prior to the date that is 3 years after the date that the actual reimbursement claim is filed or last amended, whichever is later.

(5) Existing law requires the removal of a mandated program that is modified or amended by the Legislature or by executive order to significantly affect the costs of the program from the State Mandates Apportionment System.

This bill would provide that if a local entity or school district requests that a program be removed from the system, that program shall be removed only for the purposes of the requesting local entity or school district. The bill would require the commission to complete its review of any State Mandates Apportionment System issue within 6 months of a claimant filing the request.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 17525 of the Government Code is amended to read:

17525. (a) There is hereby created the Commission on State Mandates, which shall consist of seven members as follows:

(1) The Controller.

(2) The Treasurer.

(3) The Director of Finance.

(4) The Director of the Office of Planning and Research.

(5) A public member with experience in public finance, appointed by the Governor and approved by the Senate.

(6) Two members from the following three categories appointed by the Governor and approved by the Senate, provided that no more than one member shall come from the same category:

(A) A city council member.

(B) A member of a county or city and county board of supervisors.

(C) A governing board member of a school district as defined in Section 17519.

(7) *One alternate member appointed by the Governor and approved by the Senate from the category specified in paragraph (6) that was not used in the appointments made pursuant to that paragraph. The alternate member shall attend all meetings of the commission as a nonvoting member of the commission except that the alternate member shall vote as a member if either of the regular members from the categories specified in paragraph (6) is absent or does not vote or if the position of a regular member from the categories specified in paragraph (6) is vacant.*

(b) Each *member or alternate* member appointed pursuant to paragraph (5) ~~or (6)~~, (6), or (7) of subdivision (a) shall be subject to both of the following:

(1) The *member or alternate* member shall serve for a term of four years subject to renewal.

(2) The *member or alternate* member shall receive per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of duties as a member of the commission.

1 SEC. 2. Section 17527.5 is added to the Government Code, to
2 read:

3 17527.5. The commission shall not be represented or appear
4 in any court action or proceeding involving test claims, incorrect
5 reduction claims, or other matters involving quasi-judicial
6 decisions of the commission.

7 SEC. 3. Section 17529 of the Government Code is amended
8 to read:

9 17529. (a) The commission may appoint as attorney to the
10 commission an attorney at law of this state, who shall hold office
11 at the pleasure of the commission. The attorney ~~shall~~ may represent
12 and appear for the commission in all actions and proceedings
13 ~~involving any question under this part or under any order or act of~~
14 ~~the commission in which the commission is authorized to appear.~~

15 The

16 (b) The attorney shall advise the commission and each member
17 of the commission, when so requested, in regard to all matters in
18 connection with the powers and duties of the commission and the
19 members ~~thereof of the commission~~. The attorney shall generally
20 perform all duties and services as attorney to the commission
21 which the commission may require.

22 SEC. 4. Section 17558 of the Government Code is amended
23 to read:

24 17558. (a) The commission shall submit the adopted
25 parameters and guidelines to the Controller. All claims relating to
26 a statute or executive order that are filed after the determination of
27 the test claim pursuant to Section 17557 shall be transferred to the
28 Controller who shall pay and audit the claims from funds made
29 available for that purpose.

30 (b) Not later than 60 days after receiving the adopted
31 parameters and guidelines from the commission, the Controller
32 shall issue claiming instructions for each mandate that requires
33 state reimbursement, to assist local agencies and school districts in
34 claiming costs to be reimbursed. In preparing claiming
35 instructions, the Controller may request the assistance of other
36 state agencies. The claiming instructions shall be derived from the
37 statute or executive order creating the mandate and the parameters
38 and guidelines adopted by the commission.

39 (c) The Controller shall, within 60 days after receiving revised
40 adopted parameters and guidelines from the commission or other



1 information necessitating a revision of the claiming instructions,
2 prepare and issue revised claiming instructions for mandates that
3 require state reimbursement that have been established by
4 commission action pursuant to Section 17555 or after any decision
5 or order of the commission pursuant to Section 17551. In
6 preparing revised claiming instructions, the Controller may
7 request the assistance of other state agencies.

8 ~~(d) This section shall become operative on July 1, 1996.~~

9 SEC. 5. Section 17558.5 of the Government Code is amended
10 to read:

11 17558.5. (a) ~~A (1) An initial reimbursement claim for actual~~
12 ~~costs or annual reimbursement claim~~ filed by a local agency or
13 school district pursuant to this chapter ~~is subject to the initiation~~
14 ~~of an audit shall be considered true and correct unless audited or~~
15 ~~reviewed by the Controller no later than~~ within three years after the
16 date that the actual reimbursement claim is filed or last amended,
17 whichever is later. ~~However, if no funds are appropriated or no~~
18 ~~payment is made to a claimant for the program for the fiscal year~~
19 ~~for which the claim is filed, the time for the Controller to initiate~~
20 ~~an audit shall commence to run from the date of initial payment of~~
21 ~~the claim. The audit or review shall be commenced within two~~
22 ~~years after the date that the actual reimbursement claim is filed or~~
23 ~~last amended. As used in this section "audit or reviewed" means~~
24 ~~that the audit or review is complete and a final audit report has~~
25 ~~been issued.~~

26 (2) *The three-year deadline specified in paragraph (1) shall be*
27 *tolled for any period of time during which the Controller is unable*
28 *to proceed with an audit due to a local agency request or mutual*
29 *agreement between the local agency and the Controller. A local*
30 *agency shall have 60 days to respond to a request for data by the*
31 *Controller.*

32 (b) The Controller shall notify the claimant in writing within 30
33 days after issuance of a remittance advice of any adjustment to a
34 claim for reimbursement that results from an audit or review. The
35 notification shall specify the claim components adjusted, the
36 amounts adjusted, interest charges on claims adjusted to reduce the
37 overall reimbursement to the local agency or school district, and
38 the reason for the adjustment. Remittance advices and other
39 notices of payment action shall not constitute notice of adjustment
40 from an audit or review.

(c) The interest rate charged by the Controller on reduced claims shall be set at the Pooled Money Investment Account rate and shall be imposed on the dollar amount of the overpaid claim from the time the claim was paid until overpayment is satisfied.

(d) Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement.

SEC. 6. Section 17560 of the Government Code is amended to read:

17560. Reimbursement for state-mandated costs may be claimed as follows:

(a) A local agency or school district may ~~file~~ *do as prescribed in paragraph (1) or (2):*

(1) (A) *File an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year incurred.*

(B) *If a local agency or school district files an estimated reimbursement claim, the local agency or school district shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year, or it may comply year by January 15 following that fiscal year. However, if the local agency or school district timely filed an estimated reimbursement claim for a fiscal year, but fails to file an annual reimbursement claim for that fiscal year due to mistake, inadvertence, or excusable neglect, the local agency or school district may file an annual reimbursement claim for that fiscal year within 120 days after it is notified by the Controller that it has filed a valid estimated reimbursement claim, but has not filed an actual reimbursement claim.*

(2) *Comply with the provisions of subdivision (b) or (c).*

(b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.

(c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have *until the last day of the month that contains the day that is 120 days following the issuance*

1 *date of the revised claiming instructions to file a claim. In no*
 2 *circumstance shall a local agency or school district have less than*
 3 *120 days following the issuance date of the revised claiming*
 4 *instructions to file a claim.*

5 SEC. 7. Section 17610 of the Government Code is amended
 6 to read:

7 17610. (a) The costs arising from a statute ~~containing a~~
 8 ~~statement or executive order that the statute~~ mandates a new
 9 program or higher level of service ~~and specifying that~~
 10 ~~reimbursement shall be made from the fund~~ shall, upon
 11 certification of the estimated statewide cost by the commission to
 12 the Controller, be paid from the fund, provided that the estimated
 13 statewide cost of the claim *for the initial reimbursement claims for*
 14 *each fiscal year* does not exceed one million dollars (\$1,000,000).
 15 *This section shall constitute the sole authorization required to pay*
 16 *an initial reimbursement claim for which the estimated statewide*
 17 *cost of the claim does not exceed one million dollars (\$1,000,000)*
 18 *for each fiscal year.* The Controller shall receive, review, and pay
 19 reimbursement claims from the fund as the claims are received.
 20 Claims for initial reimbursement shall be filed with the Controller
 21 within 120 days from the date that the Controller issued claiming
 22 instructions on mandates funded by the fund. When paying a
 23 timely filed claim for initial reimbursement, the Controller shall
 24 withhold 20 percent of the amount of the claim until the claim is
 25 audited to verify the actual amount of the mandated cost. Any
 26 claim for initial reimbursement filed after the filing deadline shall
 27 be reduced by 10 percent of the amount which would have been
 28 allowed had the claim been timely filed, provided that the amount
 29 of this reduction shall not exceed one thousand dollars (\$1,000).
 30 The Controller may withhold payment of any initial
 31 reimbursement claim filed after the filing deadline until the next
 32 deadline for funding claims unless sufficient funds are available to
 33 pay the claim after all timely filed claims have been paid.

34 (b) For purposes of this section, “estimated statewide cost”
 35 means the total amount of funds estimated to be necessary to
 36 reimburse all eligible local agencies and school districts for costs
 37 incurred as a result of the mandate during the first 12-month period
 38 following the operative date of the mandate.

39 (c) For purposes of this section, “costs arising from a ~~statute~~”
 40 *statute or executive order*” means the total amount of funds

1 necessary to reimburse eligible local agencies and school districts
2 for costs incurred as a result of complying with a mandate for the
3 fiscal years specified in the parameters and guidelines in
4 accordance with Section 17557.

5 SEC. 8. Section 17615.7 of the Government Code is amended
6 to read:

7 17615.7. (a) If a mandated program included in the State
8 Mandates Apportionment System is modified or amended by the
9 Legislature or by executive order, and the modification or
10 amendment significantly affects the costs of the program, as
11 determined by the commission, the program shall be removed
12 from the State ~~Mandate~~ Mandates Apportionment System, and the
13 payments reduced accordingly. Local entities or school districts
14 may submit actual costs claims for a period of three years, after
15 which the program may be considered for inclusion in the State
16 Mandates Apportionment System, pursuant to the provisions of
17 Section 17615.4.

18 (b) *If a local entity or school district requests that a program*
19 *be removed from the State Mandates Apportionment System, that*
20 *program shall be removed from the State Mandates Apportionment*
21 *System only for the purposes of the requesting local entity or*
22 *school district.*

23 SEC. 9. Section 17616 of the Government Code is amended
24 to read:

25 17616. Notwithstanding the provisions of Section 2231 of the
26 Revenue and Taxation Code, the Controller shall have the
27 authority to do either or both of the following:

28 (a) Audit the fiscal years comprising the base year entitlement
29 *and issue the final audit report* no later than three years after the
30 year in which the base year entitlement is established. The results
31 of ~~such~~ those audits shall be used to adjust the base year
32 entitlements and any subsequent apportionments based on that
33 entitlement, in addition to adjusting actual cost payments made for
34 the base years audited.

35 (b) Verify that any local agency or school district receiving
36 funds pursuant to this article is providing the reimbursed activities.

37 SEC. 10. Section 17616.1 is added to the Government Code,
38 to read:

39 17616.1. The commission shall complete its review of any
40 State Mandates Apportionment System issue, including, but not

1 limited to, a request for inclusion in the system, removal from the
2 system, review of an apportionment, or review of an established
3 base year entitlement, within six months of a claimant filing the
4 request.

5 SEC. 11. The Legislature finds and declares that the
6 amendments made to Section 17558.5 of the Government Code by
7 Section 5 of this act do not constitute a change in, but constitute
8 a clarification of, existing law.

